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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN CHRISTOPHER MOORE,

Defendant.

NO. CR22-013 LK

PLEA AGREEMENT

The United States, through United States Attorney Nicholas W. Brown and Assistant United States Attorney Todd Greenberg of the Western District of Washington and JUSTIN CHRISTOPHER MOORE and his attorney Vanessa Pai-Thompson enter into the following Plea Agreement, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A):

1. The Charge. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charge contained in Count 1 of the Indictment: *Unlawful Possession of a Destructive Device*, in violation of Title 26, United States Code, Sections 5861(d) and 5845(a)(8).

1 By entering a plea of guilty, Defendant hereby waives all objections to the form of
 2 the charging document. Defendant further understands that before entering any guilty
 3 plea, Defendant will be placed under oath. Any statement given by Defendant under oath
 4 may be used by the United States in a prosecution for perjury or false statement.

5 **2. Elements of the Offense.** The elements of *Unlawful Possession of a*
 6 *Destructive Device*, in violation of Title 26, United States Code, Sections 5861(d) and
 7 5845(a)(8), are as follows:

8 First, Defendant knowingly possessed a destructive device, as that term is
 9 defined in Title 26, United States Code, Section 5845(a)(8), that is, an
 10 explosive or incendiary device; and

11 Second, Defendant did not register the device in the National Firearms
 12 Registration and Transfer Record.

13 **3. The Penalties.** Defendant understands that the statutory penalties
 14 applicable to the offense of *Unlawful Possession of a Destructive Device*, in violation of
 15 Title 26, United States Code, Sections 5861(d) and 5845(a)(8), are as follows: A
 16 maximum term of imprisonment of up to ten (10) years, a fine of up to \$10,000.00, a
 17 period of supervision following release from prison of up to three (3) years, and a
 18 mandatory special assessment of \$100.00 dollars. If a probationary sentence is imposed,
 19 the probation period can be for up to five (5) years.

20 Defendant understands that supervised release is a period of time following
 21 imprisonment during which Defendant will be subject to certain restrictive conditions and
 22 requirements. Defendant further understands that, if supervised release is imposed and
 23 Defendant violates one or more of the conditions or requirements, Defendant could be
 24 returned to prison for all or part of the term of supervised release that was originally
 25 imposed. This could result in Defendant serving a total term of imprisonment greater
 26 than the statutory maximum stated above.

Defendant understands that as a part of any sentence, in addition to any term of imprisonment and/or fine that is imposed, the Court may order Defendant to pay restitution to any victim of the offense, as required by law.

Defendant further understands that the consequences of pleading guilty may include the forfeiture of certain property, either as a part of the sentence imposed by the Court, or as a result of civil judicial or administrative process.

Defendant agrees that any monetary penalty the Court imposes, including the special assessment, fine, costs, or restitution, is due and payable immediately and further agrees to submit a completed Financial Disclosure Statement as requested by the United States Attorney's Office.

4. Rights Waived by Pleading Guilty. Defendant understands that by pleading guilty, Defendant knowingly and voluntarily waives the following rights:

- a. The right to plead not guilty and to persist in a plea of not guilty;
- b. The right to a speedy and public trial before a jury of Defendant's peers;
- c. The right to the effective assistance of counsel at trial, including, if Defendant could not afford an attorney, the right to have the Court appoint one for Defendant;
- d. The right to be presumed innocent until guilt has been established beyond a reasonable doubt at trial;
- e. The right to confront and cross-examine witnesses against Defendant at trial;
- f. The right to compel or subpoena witnesses to appear on Defendant's behalf at trial;
- g. The right to testify or to remain silent at trial, at which trial such silence could not be used against Defendant; and
- h. The right to appeal a finding of guilt or any pretrial rulings.

1 **5. United States Sentencing Guidelines.** Defendant understands and
 2 acknowledges that the Court must consider the sentencing range calculated under the
 3 United States Sentencing Guidelines and possible departures under the Sentencing
 4 Guidelines together with the other factors set forth in Title 18, United States Code,
 5 Section 3553(a), including: (1) the nature and circumstances of the offense(s); (2) the
 6 history and characteristics of Defendant; (3) the need for the sentence to reflect the
 7 seriousness of the offense(s), to promote respect for the law, and to provide just
 8 punishment for the offense(s); (4) the need for the sentence to afford adequate deterrence
 9 to criminal conduct; (5) the need for the sentence to protect the public from further
 10 crimes of Defendant; (6) the need to provide Defendant with educational and vocational
 11 training, medical care, or other correctional treatment in the most effective manner; (7)
 12 the kinds of sentences available; (8) the need to provide restitution to victims; and (9) the
 13 need to avoid unwarranted sentence disparity among defendants involved in similar
 14 conduct who have similar records. Accordingly, Defendant understands and
 15 acknowledges that:

16 a. The Court will determine Defendant's Sentencing Guidelines range
 17 at the time of sentencing;

18 b. After consideration of the Sentencing Guidelines and the factors in
 19 18 U.S.C. § 3553(a), the Court may impose any sentence authorized by law, up to the
 20 maximum term authorized by law;

21 c. The Court is not bound by any recommendation regarding the
 22 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
 23 range offered by the parties or the United States Probation Department, or by any
 24 stipulations or agreements between the parties in this Plea Agreement; and

25 d. Defendant may not withdraw a guilty plea solely because of the
 26 sentence imposed by the Court.

27 **6. Ultimate Sentence.** Defendant acknowledges that no one has promised or
 28 guaranteed what sentence the Court will impose.

1 **7. Statement of Facts.** The parties agree on the following facts. Defendant
2 admits Defendant is guilty of the charged offense.

3 The Seattle Police Officers Guild (SPOG) is the largest police labor union
4 in the Pacific Northwest, representing all the officers and sergeants serving
5 on the Seattle Police Department (SPD). The SPOG headquarters is located
6 on Fourth Avenue South, in Seattle. During the Summer of 2020, the SPD
7 and the SPOG were focal points of regular demonstrations and, on multiple
8 occasions, were targeted in acts of violence and property destruction.

9 On September 7, 2020, a crowd of more than 1,000 protestors participated
10 in a demonstration at the SPOG. The demonstration was broadcast live
11 online via several individuals who regularly streamed protest activities. The
12 events also were observed by numerous responding SPD officers and
13 undercover law enforcement personnel who were part of the crowd.

14 The crowd marched south on Fourth Avenue and eventually stopped in
15 front of the SPOG building. Due to a variety of factors, including that there
16 were reports of gasoline smells in the immediate area, SPD officers moved
17 in to disperse the crowd. Numerous members of the crowd then marched
18 north and east and ended up in Judkins Park.

19 Shortly after the crowd dispersed from the SPOG, an SPD officer located a
20 12-pack Corona box on the ground in the parking lot of the Orient Express,
21 a property immediately adjacent to the SPOG. The Corona box contained
22 12 Molotov cocktail devices, made of glass beer bottles filled with gasoline
23 with bandanas installed as wicks.

24 Investigators subsequently reviewed surveillance and live-stream video
25 footage and determined that a particular individual was carrying the Corona
26 box in the vicinity of the SPOG building. Through further investigation,
27 law enforcement officers identified this person as defendant Justin
28 Christopher Moore.

 Moore attended the Labor Day demonstration along with other people who
referred to Moore with the moniker of "Potato." During the march, Moore
walked towards the back of the crowd carrying the box of Molotov
cocktails. He was wearing a dark blue hooded zip-up jacket with white
drawstrings; a black colored button-down shirt with two breast pockets; tan
leather work gloves; black pants; a blue surgical mask; and distinctive
black running shoes with dark soles and black elastic laces. Moore
abandoned the box when police officers moved in to disperse the crowd.

1 Moore then walked to Judkins Park and removed the outer clothes he was
 2 wearing to conceal his identity as the person who had been carrying the
 3 Molotov cocktails. At that point, Moore was wearing a red t-shirt with
 white lettering across the chest and khaki shorts.

4 On June 28-29, 2021, SPD officers executed search warrants on Moore's
 5 residence in Renton and a Hyundai Elantra vehicle that Moore drove. In the
 6 vehicle, officers recovered a smartphone; paperwork in Moore's name; and
 7 the black pants that Moore wore on Labor Day 2020. Officers also
 8 recovered from the vehicle a spiral notebook containing numerous pages of
 9 writings. Some pages of the notebook contained a list of ingredients that are
 10 related to the manufacture of explosives, including, "ping pong balls,
 11 matchbooks, Rocket candy, black powder, scale, potassium nitrate,
 magnesium, masking tape." The notebook also contained recipes for
 manufacturing explosives, including: "Smoke mix, 60/40, 60 rocket candy,
 40 black powder, flash mix 70/30, potassium nitrate, magnesium."

12 The above-referenced Molotov cocktails have been certified by forensic
 13 examiners as "destructive devices" under federal law. Moore does not have
 14 any items registered to him under the National Firearms Registration and
 Transfer Record.

15 The parties agree that the Court may consider additional facts contained in the
 16 Presentence Report (subject to standard objections by the parties) and/or that may be
 17 presented by the United States or Defendant at the time of sentencing, and that the factual
 18 statement contained herein is not intended to limit the facts that the parties may present to
 19 the Court at the time of sentencing.

20 **8. Sentencing Factors.** The parties agree that the following Sentencing
 21 Guidelines provisions apply to this case:

22 A base offense level of 18, pursuant to USSG § 2K2.1(a)(5), because the
 23 offense involved a "firearm" described in 26 U.S.C. § 5845(a), that is, a
 24 destructive device;

25 A four-level upward adjustment, pursuant to USSG § 2K2.1(b)(1)(B),
 26 based on the number of destructive devices involved in the offense; and

27 A two-level upward adjustment, pursuant to USSG § 2K2.1(b)(3)(B),
 28 because the offense involved a destructive device.

1 The government agrees not to pursue a four-level upward adjustment, pursuant to
 2 USSG 2K2.1(b)(6)(B), for possession of the devices in connection with another felony
 3 offense.

4 The parties agree they are free to present arguments regarding the applicability of
 5 all other provisions of the United States Sentencing Guidelines. Defendant understands,
 6 however, that at the time of sentencing, the Court is free to reject these stipulated
 7 adjustments, and is further free to apply additional downward or upward adjustments in
 8 determining Defendant's Sentencing Guidelines range.

9 **9. Acceptance of Responsibility.** At sentencing, *if* the Court concludes
 10 Defendant qualifies for a downward adjustment acceptance for acceptance of
 11 responsibility pursuant to USSG § 3E1.1(a) and Defendant's offense level is 16 or
 12 greater, the United States will make the motion necessary to permit the Court to decrease
 13 the total offense level by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because
 14 Defendant has assisted the United States by timely notifying the United States of
 15 Defendant's intention to plead guilty, thereby permitting the United States to avoid
 16 preparing for trial and permitting the Court to allocate its resources efficiently.

17 **10. Sentencing Recommendation.** The government agrees to recommend a
 18 sentence within the Sentencing Guidelines range as calculated by the Court at the time of
 19 sentencing. Defendant is free to recommend any sentence. Defendant understands that
 20 these recommendations are not binding on the Court and the Court may reject the
 21 recommendation of the parties and may impose any term of imprisonment up to the
 22 statutory maximum penalty authorized by law. Defendant further understands that
 23 Defendant cannot withdraw a guilty plea simply because of the sentence imposed by the
 24 Court. Except as otherwise provided in this Plea Agreement, the parties are free to
 25 present arguments regarding any other aspect of sentencing.

26 **11. Abandonment of Firearms and Contraband.** Defendant also agrees that,
 27 if any federal law enforcement agency seized any other firearms, firearm accessories,
 28 ammunition, or illegal contraband that was in Defendant's direct or indirect control,

1 Defendant abandons any and all interest in those items and consents to the federal
2 administrative disposition, official use, and/or destruction of those items.

3 **12. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
4 the United States Attorney's Office for the Western District of Washington agrees not to
5 prosecute Defendant for any additional offenses known to it as of the time of this Plea
6 Agreement based upon evidence in its possession at this time, and that arise out of the
7 conduct giving rise to this investigation. In this regard, Defendant recognizes the United
8 States has agreed not to prosecute all of the criminal charges the evidence establishes
9 were committed by Defendant solely because of the promises made by Defendant in this
10 Plea Agreement. Defendant agrees, however, that for purposes of preparing the
11 Presentence Report, the United States Attorney's Office will provide the United States
12 Probation Office with evidence of all conduct committed by Defendant.

13 Defendant agrees that any charges to be dismissed before or at the time of
14 sentencing were substantially justified in light of the evidence available to the United
15 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant
16 with a basis for any future claims under the "Hyde Amendment," Pub. L. No. 105-119
17 (1997).

18 **13. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if
19 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea
20 Agreement and Defendant may be prosecuted for all offenses for which the United States
21 has evidence. Defendant agrees not to oppose any steps taken by the United States to
22 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
23 Agreement. Defendant also agrees that, if Defendant is in breach of this Plea Agreement,
24 Defendant has waived any objection to the re-institution of any charges that previously
25 were dismissed or any additional charges that had not been prosecuted.

26 Defendant further understands that if, after the date of this Plea Agreement,
27 Defendant should engage in illegal conduct, or conduct that violates any conditions of
28 release or the conditions of confinement (examples of which include, but are not limited

to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while pending sentencing, and false statements to law enforcement agents, the Pretrial Services Officer, Probation Officer, or Court), the United States is free under this Plea Agreement to file additional charges against Defendant or to seek a sentence that takes such conduct into consideration by requesting the Court to apply additional adjustments or enhancements in its Sentencing Guidelines calculations in order to increase the applicable advisory Guidelines range, and/or by seeking an upward departure or variance from the calculated advisory Guidelines range. Under these circumstances, the United States is free to seek such adjustments, enhancements, departures, and/or variances even if otherwise precluded by the terms of the Plea Agreement.

14. Waiver of Appellate Rights and Rights to Collateral Attacks.

Defendant acknowledges that, by entering the guilty plea required by this Plea Agreement, Defendant waives all rights to appeal from Defendant's conviction, and any pretrial rulings of the Court, and any rulings of the Court made prior to entry of the judgment of conviction. Defendant further agrees that, provided the Court imposes a custodial sentence that is within or below the Sentencing Guidelines range as determined by the Court at the time of sentencing, Defendant waives to the full extent of the law:

a. Any right conferred by Title 18, United States Code, Section 3742, to challenge, on direct appeal, the sentence imposed by the Court, including any fine, restitution order, probation or supervised release conditions, or forfeiture order (if applicable); and

b. Any right to bring a collateral attack against the conviction and sentence, including any restitution order imposed, except as it may relate to the effectiveness of legal representation.

This waiver does not preclude Defendant from bringing an appropriate motion pursuant to 28 U.S.C. § 2241, to address the conditions of Defendant's confinement or the decisions of the Bureau of Prisons regarding the execution of Defendant's sentence.

1 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
2 attacking (except as to effectiveness of legal representation) the conviction or sentence in
3 any way, the United States may prosecute Defendant for any counts, including those with
4 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea
5 Agreement.

6 **15. Voluntariness of Plea.** Defendant agrees that Defendant has entered into
7 this Plea Agreement freely and voluntarily, and that no threats or promises were made to
8 induce Defendant to enter a plea of guilty other than the promises contained in this Plea
9 Agreement or set forth on the record at the change of plea hearing in this matter.

10 **16. Statute of Limitations.** In the event this Plea Agreement is not accepted
11 by the Court for any reason, or Defendant breaches any of the terms of this Plea
12 Agreement, the statute of limitations shall be deemed to have been tolled from the date of
13 the Plea Agreement to: (1) thirty (30) days following the date of non-acceptance of the
14 Plea Agreement by the Court; or (2) thirty (30) days following the date on which a breach
15 of the Plea Agreement by Defendant is discovered by the United States Attorney's
16 Office.

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1 **17. Completeness of Plea Agreement.** The United States and Defendant
2 acknowledge that these terms constitute the entire Plea Agreement between the parties,
3 except as may be set forth on the record at the change of plea hearing in this matter. This
4 Plea Agreement binds only the United States Attorney's Office for the Western District
5 of Washington. It does not bind any other United States Attorney's Office or any other
6 office or agency of the United States, or any state or local prosecutor.

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8 Dated this 22nd day of September 2022.

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10 
11 JUSTIN CHRISTOPHER MOORE
12 Defendant

13 
14 VANESSA PAI-THOMPSON
15 Attorneys for Defendant

16 
17 TODD GREENBERG
18 Assistant United States Attorney